

Judge Robb, cont.

Foundation and a Senior Distinguished Fellow of the Indianapolis Bar Foundation. She is a frequent speaker on legal topics for attorneys, other judges, and professional, civic and community organizations.

Judge Robb was Founding Chair of Governor Bowen's Commission on the Status of Women; was a recipient of a 1993 Indiana State Bar Association's "Celebrating 100 Years of Women in the Legal Profession" award; the 2001 Maynard K. Hine distinguished alumni award given in recognition of support and service to IUPUI and Indiana University; the 2004 Bernadette Perham "Indiana Women of Achievement" Award, bestowed by Ball State University to honor of one of their outstanding professors; the 2005 Indiana State Bar Association's Women in the Law Recognition Award; the 2006 Tippecanoe County YWCA Salute to Women "Women of Distinction" Award; the 2007 Warren G. Harding High School, Warren, Ohio, Distinguished Alumni Award; the 2010 Indiana University Alumni Association President's Award, a 2010 Indiana Lawyer Distinguished Barrister Award, the 2011 Indianapolis Bar Association Women and the Law Committee's Antoinette Dakin Leach Award and the 2011 David Hamacher Award from the Appellate Practice Section of the Indiana State Bar Association.

Judge Robb chairs the Supreme Court Task Force on Family Courts and is involved in several projects to benefit the Indiana legal system. She also chaired the Supreme Court task force for the development of Trial Court Local Rules, has also served as a member of the Indiana Board of Law Examiners, the Governance Committee of the Supreme Court IOLTA (Interest on Lawyer Trust Account) Committee; the Federal Advisory Committee on Local Rules for the Federal Court for the Northern District of Indiana; and the Federal Advisory Committee for the Expediting of Federal Litigation.

Judge Robb authored "Reflections of Baseball, Life and the Law" in the Indiana State Bar Association's journal, *Res Gestae* and "Running Bases, Winning Cases: Why the Grand Old Game of Baseball is like the legal

profession" in the ABA's journal. She also authored a chapter on Supreme Court Justice Leonard Hackney in, *Indiana Supreme Court Justices*, and co-authored a chapter, "From Juvenile Courts to Family Courts," in *Essays on Indiana Legal History*.

In addition, she serves on the ABA Committee that accredits law schools and Chaired the 2010 ABA's Appellate Judges Council - Appellate Judges Education Institute's national Summit for Judges, lawyers and Staff attorneys. Chief Judge Robb is an elected member of the American Law Institute (ALI).

Judge Robb was retained on the Court of Appeals in 2000 and 2010, is married to a professor at Purdue University. Their son, a graduate of the United States Naval Academy, is a Lieutenant on active duty in the United States Navy.

Judge Riley, cont.

al legal experience. In 2008, she co-founded the Legal Aid Centre of Eldoret, Kenya (LACE), which provides legal access to justice in the AMPATH medical center for its HIV/AIDS patients.

In 2011, Judge Riley traveled with the Washington, D.C.-based International Judicial Academy to The Hague, Netherlands, to observe the International Criminal Court and two International Criminal Tribunals that are hearing cases from Sierra Leone and the former Yugoslavia.

In 2012 she participated in the 3rd Sino-U.S. Law Conference, which was held in Beijing at the National Judges College of the People's Republic of China, which oversees all aspects of that country's judicial training, placement and promotion.

Judge Riley is the mother of two sons. She was retained on the Court by election in 1996 and 2006.

Judge Bradford, cont.

duction of juvenile pretrial incarceration in Marion County that is now a statewide model.

Before joining the bench, he was recruited by Marion County Prosecutor Scott Newman as Chief Trial Deputy, in which capacity he managed a staff of more than 100 attorneys for two years. He also served five years as an Assistant United States Attor-

ney for the Southern District of Indiana, where he prosecuted major felony drug cases under United States Attorney Deborah J. Daniels. He was in private legal practice from 1986 to 1991.

A native Hoosier, Judge Bradford earned a B.A. in labor relations and personnel management from Indiana University-Bloomington in 1982 and his J.D. from Indiana University School of Law-Indianapolis in 1986. He is the Court of Appeals' liaison to the Indiana Judges Criminal Instructions Committee, which provides guidance to judges on jury instructions in criminal cases, and he is a former member of both the Indiana Judges Criminal Policy Committee and the Board of Directors of the Indiana State Judicial Conference.

Judge Bradford is a Distinguished Senior Fellow of the Indianapolis Bar Association and a member of the Marion County Bar Association, Kosciusko County Bar Association, Indiana State Bar Association, American Bar Association, and the Sagamore Inn of Courts. He has taught Indiana Continuing Legal Education Foundation trial practice seminars for more than 10 years and also teaches Forensic Science and the Law at Indiana University-Purdue University Indianapolis, where he is an adjunct instructor.

Judge Bradford is well versed in contemporary technology and media issues, having served on the Judicial Technology and Automation Committee (JTAC), helping to draft the state judiciary's policies on technology and case management. He frequently lectures on a wide range of legal topics and in 2012 will serve as a Vice President of the Indianapolis Bar Association and on the Indiana State Bar Association Appellate Practice Section Executive Committee.

Judge Bradford is a former director of the John P. Craine House in Indianapolis, a residential alternative to incarceration for women offenders with preschool-aged children. He is a former advisory board member of the Lawrence Youth Football League and has long been active at Castleton United Methodist Church.

He and his wife, Sam, a full-day kindergarten teacher, have five adult children.

COURT OF APPEALS OF INDIANA

ORAL ARGUMENT AT A GLANCE

UNIVERSITY PLACE, WEST LAFAYETTE

Turner v. Kent and Kazlauski

CIVIL LAW ISSUES:

- What was the settlor's intent in executing the specific gifts form?
- Are the specific gifts of real property valid under Indiana trust law?

ORAL ARGUMENT:

Tuesday, June 10, 2014
10:30 a.m.

APPEAL FROM:

Porter Superior Court
The Honorable
William E. Alexa, Judge

Synopsis: *Case No. 64A05-1310-TR-510*

On March 5, 2004, Alexander and Selma Kazlauski established a trust, designating themselves as its trustees and beneficiaries during their lifetimes. The trust agreement provides that, upon the death of both Alexander and Selma, the trust's net proceeds shall be divided equally between Alexander and Selma's three children: Linda, Sally, and Stanley. The trust agreement also included the following two provisions:

We may from time to time indicate our desire that specific gifts be made from this living trust upon the death of the survivor of us. If we make known our desire in writing referring to or attached to this trust agreement, upon the death of the survivor of us, the trustee(s) shall distribute the specific gifts as if the specific

gifts had been made in this trust agreement itself.

Alexander died on June 7, 2005. Three years later, Selma executed a form purporting to make specific gifts of real property to Linda and Stanley. The form included the following language: "Pursuant to the provisions of our revocable living trust which incorporates this specific gifts form by reference, we instruct the trustee(s) to distribute the following gifts."

Selma died on Aug. 15, 2010, and Linda has been acting as successor trustee since that time. On Nov. 5, 2012, Sally and Stanley petitioned for interpretation of trust provisions, claiming Selma's specific gifts form was ineffective in modifying the equal division provided for in the trust agreement. Sally and Stanley

later moved for summary judgment on this issue, which motion the trial court granted.

In its Sept. 30, 2013 order granting summary judgment in favor of Sally and Stanley, the trial court concluded the form to be an invalid "attempt to incorporate by reference specific gifts of non-personal property."

On appeal, Linda challenges the trial court's grant of summary judgment. She argues that Selma's specific gifts form constitutes an amendment to the distribution terms of the trust, not an incorporation by reference, and therefore claims that the form's specific gifts of real property are valid.

Alternatively, Linda argues that Indiana law does not prohibit the trust's incorporation by reference of specific gifts of real property.

Attorneys for the Parties

For the Appellant

Jason M. Smith lives in and maintains his practice in Seymour. He received his Bachelor of Science in Accounting from the Kelley School of Business at Indiana University in 2002 and received his Doctorate of Jurisprudence from Valparaiso University School of Law in 2006. Mr. Smith went on to obtain his Master of Laws (L.L. M.) in taxation from the Chicago Kent College of Law in 2012.

Mr. Smith was admitted to practice in the State of Indiana and the Northern and Southern Federal Districts of Indiana in 2006. After several years of working for two midsized firms and one small firm, Jason opened his own firm in January of 2013 and he currently maintains offices in both Seymour and Valparaiso.

Attorney Smith focuses his practice in estate planning and administration, business and tax matters, and elder law. Jason’s experience includes the regular preparation of portions of or entire appellate briefs that concern legal issues in his area of practice.

For the Appellees

Kent A. Jeffirs is a lifelong Indiana resident, having grown up the ninth of 12 children in the small town of Plymouth. He and his wife, Calliopi Lontakis Jeffirs, live in Crown Point and have three children.

He received his undergraduate degree from the University of Notre Dame, *cum laude*, in 1989, and his Doctorate of Jurisprudence from Indiana University-Bloomington, *magna cum laude*, in 1992. He was a Member and Associate Editor of the Indiana Law Journal. After 15 years of practice in wills, trusts and estates, in 2007, he was part of the first group of attorneys to be certified as a Trusts and Estates Specialist by the Indiana Trust and Estate Specialty Board.

Mr. Jeffirs is the author of "Always the Last to Know: No Notice is Good Notice for Disinherited Family Members Who May Challenge the Validity of a Will," published in *Res Gestae*, the Journal of the Indiana State Bar, advocating the reform of Indiana's probate notice requirements. This scholarly work was acknowledged by the Indiana Supreme Court in the case of *Troxel v. Troxel*, 737 N.E.2d 745 (Ind. 2000).

He was elected in 2003 to serve as Judge of the Crown Point City Court hearing traffic cases, city ordinance violation cases and other local offenses. He continues to serve as the Crown Point City Judge in addition to his long-standing private practice.

What happens after oral argument?

After oral argument, the judges confer to decide the outcome. One, called the writing judge, drafts an opinion for the others’ review. Final language may involve several drafts and significant collaboration among the judges.

Generally, opinions will affirm or reverse lower court rulings in whole. But some affirm in part, some reverse in part, and some do both. Not infrequently, the opinion instructs the trial court about the next appropriate course of action.

Many opinions are unanimous, although non-unanimous decisions (2-1) are not uncommon. Dissenting judges usually express their views in a separate opinion that becomes part of the permanent record of the case. Judges sometimes write separate, concurring opinions that emphasize different points of law or facts than the main opinion.

No rules or laws govern how fast the Court of Appeals must issue an opinion. But the court strives to decide cases within four months of receiving all briefs, transcripts and other records.

Once issued, all opinions are published on ***www.courts.in.gov*** and maintained in the permanent records of the Clerk of Appellate Courts.

Parties can appeal decisions of the Court of Appeals to the Indiana Supreme Court by filing a petition to transfer within a prescribed number of days. But transfer is not automatic; the Supreme Court can grant or deny transfer with or without giving a reason.

If the petition is denied, the Appeals Court decision stands.

Court of Appeals tidbits

■ Six of the court’s first 19 judges served in the Civil War, all as Union soldiers or officers. Judge Posey Kime, born 1896, was the first to serve in WW1.

■ Nine Court of Appeals judges have later served the Indiana Supreme Court, including current Justice Robert D. Rucker.

■ Judge Frank M. Powers served just 33 days. The longest serving judge by far is Patrick D. Sullivan Jr., at more than 16,000 days. He retired in 2007 but still serves as a senior judge.

■ One of the five original members of the court, Jeptha New, died from a self-inflicted pistol shot in 1892. His term of office was completed by his son, Willard New.

■ Another father-son pair also served on the court: Ralph N. Smith and son Russell W. Smith. An uncle-nephew pair also served: Edgar D. Crumpacker and nephew Harry L. Crumpacker.

■ Memorably named judges include Henry Clay Fox, Daniel Webster Comstock, Cassius Clay Hadley and Ira Batman.

■ Judge John C. McNutt’s son, Paul McNutt, was Indiana governor from 1933-37 and appointed two judges to the Court of Appeals.

■ One foreign-born judge attained the court: George L. Reinhard was born in Bavaria in 1843, served in the Civil War and wrote “The Common Sense Lawyer.”

■ Judge Thomas Faulconer made Indiana history when, as a Marion County judge, he opened his courtroom doors to TV and newspaper cameras for a celebrated murder trial in 1959.

■ Judge Joseph H. Shea resigned his Appeals Court seat in 1916 to become President Woodrow Wilson’s ambassador to Chile.

Today’s Panel of Judges

*The Honorable
Margret G. Robb
(Tippecanoe County)*

Margret G. Robb was appointed to the Court of Appeals of Indiana in July 1998 by Governor Frank O’Ban-non. She holds a B.S. and an M.S. in Business Economics from Purdue University, a Magna Cum Laude J.D. from Indiana University Robert H. McKinney School of Law and is a graduate of the Graduate Program for Indiana Judges. In 2011 she began a three year term as **Chief Judge**; the first woman to hold that position in the Court’s more than 100 year history.

Prior to her appointment to the Court, Judge Robb was, for 20 years, engaged in the general practice of law in Lafayette, and served as a Chapter 11, 12 and a standing Chapter 7 Bankruptcy trustee for the Northern District of Indiana. She was a registered family and civil mediator and served as a Tippecanoe County Deputy Public Defender.

She has been an officer of the Indiana State Bar Association, the Fellows of the Indiana State Bar Foundation, Tippecanoe County Bar Association, National Association of Women Judges, the Indiana University School of Law- Indianapolis Alumni Association and the Bankruptcy Section of the Indiana State Bar Association.

She has also been a Board member of the Appellate Judges Council of the American Bar Association, the Indianapolis Bar Association, the Indianapolis Bar Foundation, the Senior Council Section of the Indianapolis Bar Association, the Appellate Practice Section of the Indiana State Bar Association and the Appellate Judges Education Institute.

She was the moderator for the 2005-2006 and Chair for the 2006-2007 Indianapolis Bar Association’s Bar Leader Series, and is a member of the American Bar Foundation, American Judicature Society, a Master Fellow of the Indiana State Bar

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*The Honorable
Patricia A. Riley
(Jasper County)*

Patricia A. Riley was named to the Court of Appeals of Indiana by Governor Evan Bayh in January of 1994. A native of Rensselaer, Indiana, Judge Riley earned her bachelor’s degree from Indiana University-Bloomington in 1971 and her law degree from the Indiana University School of Law-Indianapolis in 1974.

Early in her career she served as a Deputy Prosecutor in Marion County and a public defender in Marion and Jasper counties before entering into private practice in Jasper County. She served as a judge of the Jasper Superior Court from 1990 to 1993. She is a former associate professor at St. Joseph's College in Rensselaer and currently an adjunct professor at the Indiana University School of Law -Indianapolis.

Judge Riley’s legal memberships include the Indianapolis Bar Association, the Marion County Bar Association, and the Indiana State Bar Association, including co-chair of the ISBA’s Racial Diversity in the Profession Section; member, Women in the Law Committee; and member, Committee on Improvements in the Judicial System.

Judge Riley is the former chair of the Appellate Practice Section of the American Bar Association, and a member of the ABA’s Judicial Division International Courts Committee. She is a member of the Indiana Judges Association and the Board of Directors of the National Association of Women Judges.

Judge Riley’s civic associations include being on the Board of Directors of the Greater Indianapolis Health Foundation, Board of Directors of Global Peace Initiatives, Board of Directors and Treasurer of the Indiana University School of Law – Indianapolis Alumni Association, and a member of the Indianapolis Rotary Club.

She also has extensive internation-

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*The Honorable
Cale J. Bradford
(Marion County)*

Cale J. Bradford has broad experience in both the state and federal legal systems, including service as a Marion County deputy prosecutor, a public defender, a federal prosecutor, a trial court judge and an appellate court judge. In addition, he has six years’ experience in private legal practice.

He was appointed to the Court of Appeals of Indiana by Gov. Mitch Daniels and took his seat on Aug. 1, 2007. In that time, he has participated in more than 2,000 appellate decisions and more than 80 oral arguments. He has written more than 700 majority decisions, including 145 published opinions. Judge Bradford also led a successful effort to encourage the mediation of legal disputes pending before the Court of Appeals, and greatly contributed to creation of the Judicial Retention website that helps voters make informed decisions about Appellate Judges standing for retention election.

Before joining the Appeals Court, he served the people of Marion County for more than 10 years as Judge of the Marion Superior Court, including seven years in the criminal division and three in the civil division. Twice, his colleagues elected him as presiding judge of the Court.

During that tenure, Judge Bradford led two major initiatives that addressed critical criminal justice issues facing Marion County. He chaired the Marion County Criminal Justice Planning Council, which recommended improved responses to jail overcrowding, staffing and budgets. Those efforts led to the end of 30 years of federal oversight of the Marion County Jail and to security improvements at the county’s Juvenile Detention Center. He also led implementation of the Annie E. Casey Foundation Juvenile Detention Alternative Initiative, which resulted in a comprehensive yet responsible re-

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